



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/746,033	12/21/2000	Nobuhiro Kurata	2309/01095	9174

7590 02/13/2003

DARBY & DARBY P.C.  
805 Third Avenue  
New York, NY 10022

EXAMINER

SALVATORE, LYNDIA

ART UNIT	PAPER NUMBER
----------	--------------

1771

DATE MAILED: 02/13/2003

6

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/746,033	KURATA ET AL.	
	Examiner	Art Unit	
	Lynda M Salvatore	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period of Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2002.
- 2a) ☒ This action is **FINAL**.      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>5</u> . | 6) <input type="checkbox"/> Other:  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment, Paper No. 5 has been entered. Claims 1 and 8 have been amended as requested.

2. Applicant's amendments and accompanying remarks entered as Paper No. 5 have been carefully considered, however, despite this advance the amendments are not found to patently distinguish the claims over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

### ***Claim Rejections - 35 USC § 103***

3. Claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Christon et al., PCT Application WO 97/18784 in view of Gross et al., US 6,403,857 as set forth in section 2 of the last Office Action and further in view of Roe, US 5,516,572.

Applicant amended claim 1 to include the limitation of a spun-laced surface layer having a plurality of perforations on an entire area thereof and argues that the Christon et al., reference fails to teach these limitations. However, it is the position of the Examiner that Christon et al., does teach a liquid pervious, readily dispersible, apertured top sheet (Page 17, 9-20). Christon et al., teaches that the top sheet may be manufactured from air or wet laid non-woven materials (Page 17, 10-15). Christon et al., teaches that the preferred top sheet comprises a wet laid fibrous assembly having a plurality of apertures therethrough (Page 17, 20-23). Although, Christon et al., fails to explicitly teach a spun-laced non-woven it is well known in the art that air and wet laid non-woven materials are often precursors to spun-laced non-woven materials, which are produced by hydroentangling a dry or wet laid non-woven. For example, the patent issued to

Art Unit: 1771

Roe teaches hydroentangling an air-laid web to form a top-sheet suitable for use in an absorbent article (Abstract). Roe further discloses that the hydroentangling may also function to create apertures in the fabric (Column 7, 3-30). Additionally, the Examiner gives Official Notice that it is also well known in the art that a spun-laced non-woven exhibits superior softness, drape, conformability and strength.

As such, motivated to impart said superior properties, it would have been obvious to one having ordinary skill in the art at the time to hydroentangle the air or wet laid non-woven of Christon et al., as taught by Roe.

4. Claims 1-3 and 8 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Christon et al., PCT Application WO 97/18784 in view of Chmielewski et al., US 6,403,857 as set forth in section 3 of the last Office Action.

Applicant's arguments with respect to Christon et al., are not found to be persuasive for reasons set forth above and no new arguments have been presented.

5. Claims 4-6, and 9 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Christon et al., PCT Application WO 97/18784 in view of Chmielewski et al., US 6,403,857 as applied to claims 1 and 8 above, and further in view of Wang et al., US 2002/0065363 A1 as set forth in section 4 of the last Office Action. Applicant's arguments with respect to Christon et al., are not found to be persuasive for reasons set forth above and no new arguments have been presented.

*Conclusion*

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Art Unit: 1771

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

Is   
February 7, 2003

  
CHERYL A. JUSKA  
PRIMARY EXAMINER  
CHERYL A. JUSKA  
PRIMARY EXAMINER